REMARKS

This Amendment is in response to the Office Action of November 2, 2005 in which the Examiner rejected claims 1-6, 8, 9, 11-15, 17 and 18 over Suter '559 in view of Ryder '610.

The examiner objected to claims 1, 19 and 11 for technical reasons which have been addressed by Amendments herein. Claims 1 and 19 have been amended to clearly recite that the pores are in the membrane. Claim 11 has been amended to separately recite the materials forming the body and the materials forming the membrane. See paragraph 32 and the table on page 6 of the specification for the listing of materials.

Claims 20 and 21 are withdrawn.

The Examiner rejected claims 1-6, 8, 9, 11-15, 17 and 18 as unpatentable over Suter '559 in view of Ryder '610. According to the Examiner, the stopper of the invention would have been obvious to one skilled in the art, because the stopper of Suter '559 comprises all the features of the present invention but for the microholes in the membrane, disclosed in Ryder '610.

Applicant respectfully disagrees with the Examiner, because the stopper of Suter does not disclose a tube secured in the duct. The stopper disclosed in Fig. 5 of Suter shows a tubular duct having two opposite portions 4b, 4b' with large diameter (for a smooth insertion of the corkscrew), and an intermediate portion with a small diameter located between the two opposite portions. A gas barrier layer 2b is located in the intermediate portion. In the embodiment shown, the barrier layer is

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rod shaped (whereas in the remaining embodiments it is disc shaped) and its general function is for regulating the passage of gas through the stopper, like the membrane of the present invention. However, the barrier of Suter is located directly in the tubular duct.

In contrast, the membrane in the invention is secured in a tube which, in turn, is located in the tubular duct. This allows some important advantages in the production phase of the stopper. For example, the tube is much easier to fit into the duct than the membrane alone. Also improved performance is achieved, particularly in terms of reproducibility of the gas passage properties.

The patent to Ryder discloses a contact lens case provided with two venting features. The first is a check valve for venting the overpressure of oxygen developed from hydrogen peroxide solutions commonly used in such cases. An additional pressure relief device, namely the filter assembly 33 is also provided. The filter relieves low level pressure.

Applicant does not agree that one designing a stopper for a wine bottle would have been prompted to selectively employ one component of a complex pressure relief system for contact lens cases. Clearly, Ryder requires a two stage system. It appears that the filter in Ryder is only for venting low pressure gas from within the case. There is no suggestion that it would be advantageous to allow for the exchange of residual air in the case as is achieved in the invention. Indeed, Ryder seeks to prevent bacterial infiltration back into the case. Applicant believes that the technical field contact lens cases is so far removed from the technical

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field of wine bottle stoppers of the present invention, that one skilled in the art of stoppers would have not be inspired to use Ryder to modify the stopper of Suter. There is no hint or suggestion in Ryder that would have led one skilled in the art to use its content in the field of the stoppers of wine bottles.

Indeed, the membrane of Ryder is provided in a vent valve, so that it is designed to work with oxygen overpressures, and, particularly, to allow the flow of gas as quickly as possible thereby avoiding overpressures. On the contrary, the gas passage in the stopper of the invention is very slow, and there is no relevant overpressure of oxygen. This is advantageous in a stopper for a wine bottle to prevent spoilage of the wine, and because wine stoppers are designed to maintain a suitable seal for a long period of time. In contrast, contact lens cases are designed to be opened on a daily basis. Accordingly, for these reasons also, one skilled in the art of stoppers would not have considered a medical device relevant for modifying the stopper of Suter. The membrane of Suter seems to have a different purpose. In addition, the complexity of Ryder would militate against the desire for simplicity in a disposable device such as a wire stopper.

In view of the foregoing it is respectfully requested that the Examiner reconsider his rejection of the claims, the allowance of which is earnestly solicited.

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If additional fees are required, the Director is authorized to charge deposit account 04-2233 for any deficiency or credit any overpayment thereto.

Respectfully submitted,

DYKEMA GOSSETT PLLC

By:

John P. DeLuca
Registration No. 25,505
Franklin Square, Third Floor West
1300 I Street, N.W.
Washington, DC 20005-3353
(202) 906-8626

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